

1 UNITED STATES DISTRICT COURT  
2 CENTRAL DISTRICT OF CALIFORNIA  
3 -----x  
4 INTERWORKS UNLIMITED, INC., a  
5 California Corporation,  
6 Plaintiff,  
7 -against-  
8 DIGITAL GADGETS, LLC; a New Jersey  
9 limited liability company,  
10 Defendant.

11 Case No: 2:17-cv-4983 AB KSx

12 -----x

13 488 Madison Avenue  
14 New York, New York

15  
16 August 21, 2018  
17 10:01 a.m.  
18

19 Examination Before Trial of the  
20 Defendant by CHARLES TEBELE, pursuant to  
21 Notice, before CINDY A. AFANADOR, a Notary  
22 Public of the State of New York.  
23  
24  
25



<p>1 in the interviews?</p> <p>2 <b>A. No.</b></p> <p>3 Q. Have you heard of Interworks</p> <p>4 Unlimited, Inc.?</p> <p>5 <b>A. I've heard of the term</b></p> <p>6 <b>Interworks, I don't know about the comma Inc.</b></p> <p>7 Q. Okay.</p> <p>8 When did you first hear of this</p> <p>9 company?</p> <p>10 <b>A. I don't recall.</b></p> <p>11 Q. Have you ever met an individual</p> <p>12 named Eric Lu?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Do you recall when you met him?</p> <p>15 <b>A. I believe it would be in</b></p> <p>16 <b>January 2017.</b></p> <p>17 Q. Did you meet him in New York?</p> <p>18 <b>A. I don't believe so.</b></p> <p>19 Q. Do you recall where you met him</p> <p>20 first?</p> <p>21 <b>A. I recall that I met him in</b></p> <p>22 <b>Las Vegas. I don't know if there were other</b></p> <p>23 <b>meetings, but that's one that I recall.</b></p> <p>24 Q. Were you in Vegas for a trade</p> <p>25 show?</p> <p style="text-align: right;">Page 14</p>	<p>1 hoverboards from --</p> <p>2 <b>A. Are you stating that as a fact or</b></p> <p>3 <b>are you asking me -- what's the question?</b></p> <p>4 Q. Do you remember at the time you</p> <p>5 first met Eric Lu your company had already</p> <p>6 made purchases from his company?</p> <p>7 <b>A. Do I remember if my company</b></p> <p>8 <b>already made purchases?</b></p> <p>9 Q. Yes.</p> <p>10 <b>A. Again, just like I said before,</b></p> <p>11 <b>I'm not clear on the timeline, but we</b></p> <p>12 <b>purchased purchases from him and I met him.</b></p> <p>13 <b>I'm not recalling the sequence of events.</b></p> <p>14 Q. So you don't remember when your</p> <p>15 company first purchased products from his</p> <p>16 company?</p> <p>17 <b>A. In relation to when I met him,</b></p> <p>18 <b>I'm not sure.</b></p> <p>19 Q. Okay.</p> <p>20 Do you know what was the</p> <p>21 merchandise your company purchased from his</p> <p>22 company?</p> <p>23 <b>A. Hoverboards.</b></p> <p>24 Q. Before you came today, did you</p> <p>25 review any documents, intra-company, relating</p> <p style="text-align: right;">Page 16</p>
<p>1 <b>A. Yes.</b></p> <p>2 Q. And what trade show was that?</p> <p>3 <b>A. The CES trade show.</b></p> <p>4 Q. CES would stand for?</p> <p>5 <b>A. Consumer Electronics. I don't</b></p> <p>6 <b>know what the "S" is for. Show.</b></p> <p>7 Q. That's a good guess.</p> <p>8 When you first met Eric Lu in</p> <p>9 Las Vegas for this trade show, what did you</p> <p>10 guys talk about?</p> <p>11 <b>A. (No response.)</b></p> <p>12 Q. Do you remember anything that you</p> <p>13 discussed with Eric Lu when you first met him?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Did he ever offer any of his</p> <p>16 merchandise to your company as a vendor?</p> <p>17 <b>A. I believe when I met him we were</b></p> <p>18 <b>already involved in some sort of business, but</b></p> <p>19 <b>I don't know the sequence. I don't recall</b></p> <p>20 <b>offhand the sequence of events.</b></p> <p>21 Q. Was Chris Mitchell there to?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. At the meeting -- do you recall</p> <p>24 at the time the meeting taking place your</p> <p>25 company had already made purchase of</p> <p style="text-align: right;">Page 15</p>	<p>1 to the purchase of these hoverboards?</p> <p>2 <b>A. I reviewed certain documents.</b></p> <p>3 Q. And what were these documents</p> <p>4 that you had reviewed?</p> <p>5 <b>A. There were a production of</b></p> <p>6 <b>documents, they were voluminous, I reviewed</b></p> <p>7 <b>them to refresh my memory, but I don't know</b></p> <p>8 <b>which documents -- I can't recall which</b></p> <p>9 <b>documents or why. There were a lot of</b></p> <p>10 <b>documents.</b></p> <p>11 Q. Did you review your company's</p> <p>12 purchase orders?</p> <p>13 <b>A. Not particularly. I may have</b></p> <p>14 <b>scanned them. I'm sure I scanned them.</b></p> <p>15 Q. Did you review the invoices</p> <p>16 issued by Interworks to your company?</p> <p>17 <b>A. What do you mean by "review"?</b></p> <p>18 Q. Review, meaning look at the</p> <p>19 document and have -- for a certain purpose,</p> <p>20 and when you finished reading it, well, I</p> <p>21 can't give you a definition of review. Review</p> <p>22 means review.</p> <p>23 <b>A. Then I can't answer it.</b></p> <p>24 Q. Well, have you had a chance to</p> <p>25 look at those documents?</p> <p style="text-align: right;">Page 17</p>

<p>1 <b>A. Me personally?</b></p> <p>2 Q. Yes.</p> <p>3 <b>A. No. Doesn't preclude me from</b></p> <p>4 <b>reviewing any.</b></p> <p>5 Q. If you want to, you could?</p> <p>6 <b>A. Yes.</b></p> <p>7 MR. HSU: Let me attach these two</p> <p>8 documents; why don't we mark them as</p> <p>9 Exhibit 1 and 2.</p> <p>10 (Tebele Exhibit 1, Second Amended</p> <p>11 Notice of Taking Deposition of Charlie</p> <p>12 Tebele, marked for identification.)</p> <p>13 (Tebele Exhibit 2, Second Amended</p> <p>14 Notice of Taking Deposition of</p> <p>15 Defendant/Counterclaimant Digital</p> <p>16 Gadgets, LLC, marked for</p> <p>17 identification.)</p> <p>18 Q. These two exhibits or notices of</p> <p>19 deposition of you individually and notice of</p> <p>20 taking deposition of defendant, Digital</p> <p>21 Gadgets.</p> <p>22 The -- my understanding is that</p> <p>23 you have been designated as the person most</p> <p>24 knowledgeable about the issues in this case by</p> <p>25 your company, Digital Gadgets, right?</p> <p style="text-align: right;">Page 34</p>	<p>1 knowledge of any returns of hoverboards made</p> <p>2 by Digital Gadgets to Interworks?</p> <p>3 <b>A. Personal knowledge that I'm</b></p> <p>4 <b>carrying in my head, no. There may be</b></p> <p>5 <b>documents to support in whatever we would</b></p> <p>6 <b>submit.</b></p> <p>7 Q. Okay.</p> <p>8 <b>A. Whether there were or weren't...</b></p> <p>9 Q. That's fair.</p> <p>10 Have you ever seen any documents</p> <p>11 in the possession of your company that had</p> <p>12 anything to do with the return that was</p> <p>13 referenced in number 14 here?</p> <p>14 <b>A. I don't recall any specific</b></p> <p>15 <b>documents.</b></p> <p>16 Q. Okay.</p> <p>17 <b>A. That doesn't mean there aren't</b></p> <p>18 <b>documents, that doesn't mean I didn't see</b></p> <p>19 <b>them, but I don't know of any specific</b></p> <p>20 <b>documents.</b></p> <p>21 Q. You might have seen them, but you</p> <p>22 don't remember at that point?</p> <p>23 <b>A. Correct.</b></p> <p>24 MR. LAZARUS: Give me one second</p> <p>25 with Charlie.</p> <p style="text-align: right;">Page 36</p>
<p>1 <b>A. (No response.)</b></p> <p>2 MR. LAZARUS: Yes.</p> <p>3 MR. HSU: Okay.</p> <p>4 Q. Now, fairly quickly, if you look</p> <p>5 at the Exhibit 2, the second amended notice of</p> <p>6 taking deposition of defendant, if you can</p> <p>7 help me go to the second page.</p> <p>8 <b>A. (Witness complying.)</b></p> <p>9 Q. Look at the third page.</p> <p>10 <b>A. (Witness complying.)</b></p> <p>11 Q. And you can see these categories</p> <p>12 being described on top of the pages number 10</p> <p>13 all the way through number 21, right?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Did you look at those categories</p> <p>16 before you came today?</p> <p>17 <b>A. You are asking me if I saw this</b></p> <p>18 <b>document before I came today?</b></p> <p>19 Q. Yes.</p> <p>20 <b>A. I don't recall.</b></p> <p>21 Q. 14, if you look at that 14, says</p> <p>22 in a return of merchandise to the defendant</p> <p>23 that were previously purchased from the</p> <p>24 plaintiff.</p> <p>25 Do you have any personal</p> <p style="text-align: right;">Page 35</p>	<p>1 THE WITNESS: Yeah.</p> <p>2 (Recess taken.)</p> <p>3 <b>A. So just to clarify, any returns,</b></p> <p>4 <b>there would be paperwork if it was requested,</b></p> <p>5 <b>that would substantiate whether there were</b></p> <p>6 <b>terms or not in the submissions.</b></p> <p>7 Q. My previous question to you is,</p> <p>8 do you recall seeing any of those documents?</p> <p>9 <b>A. In the ordinary course of</b></p> <p>10 <b>business we returned product, so I don't</b></p> <p>11 <b>recall specific documents, but, like I said,</b></p> <p>12 <b>if there were documents and reports showed to</b></p> <p>13 <b>me, I can identify whether they were returns</b></p> <p>14 <b>or not based on those documents.</b></p> <p>15 Q. Sitting there, you don't have any</p> <p>16 specific recollections on any specific</p> <p>17 documents?</p> <p>18 <b>A. Correct. However, you know,</b></p> <p>19 <b>there are registers and documents and backup</b></p> <p>20 <b>to what was returned and wasn't returned.</b></p> <p>21 Q. Let's move on to the next one.</p> <p>22 This will be -- you guys can share.</p> <p>23 It is a letter dated May 19,</p> <p>24 2017.</p> <p>25 MR. HSU: This will be Number 3.</p> <p style="text-align: right;">Page 37</p>

<p>1 (Tebele Exhibit 3, Document 2 bearing Bates stamp Interworks 7, marked 3 for identification.) 4 Q. This letter apparently was 5 written by Thomas Carulli, supposedly a lawyer 6 working for this firm. I'm looking at the 7 letterhead; Kaplan, Massamillo &amp; Andrews. 8 Have you ever seen this document? 9 <b>A. Yes.</b> 10 Q. Did you hire this law firm to 11 write this letter to Interworks? 12 <b>A. Yes.</b> 13 Q. And let's look at the first 14 paragraph. 15 Says "Dear Mr. Lu, we represent 16 Digital Gadgets, LLC. This is to place you on 17 notice that Interworks has violated the 18 exclusive right granted DG," that's Digital 19 Gadgets, "to sell Interworks products to and 20 through QVC, moreover, at a price less than 21 offered by Digital Gadgets, resulting in 22 significant and irreparable harm to Digital 23 Gadgets." 24 <b>A. Yes, it was terrible.</b> 25 Q. There are two issues raised by</p> <p style="text-align: right;">Page 38</p>	<p>1 <b>multiple occasions, I spoke to QVC. I mean</b> 2 <b>this was a heavy issue, this wasn't a light</b> 3 <b>issue and we would never, as our company</b> 4 <b>policy, sell something that someone else</b> 5 <b>makes, to then have that company go and</b> 6 <b>compete with us on the same thing.</b> 7 Q. Well, that's fair. 8 So Chris Mitchell reported this 9 to you; what did he tell you, if anything, 10 that you recall pertaining to this exclusive 11 right? 12 <b>A. Look, I had many conversations</b> 13 <b>with Chris Mitchell and with Eric, but what I</b> 14 <b>will say is Interworks was in a jam, we helped</b> 15 <b>them, and explicit in the help was this</b> 16 <b>exclusive, which was being honored for a time,</b> 17 <b>but then at some point, Interworks decided to</b> 18 <b>go rogue and go behind our backs, so it was</b> 19 <b>not just implied, it was the tone of the</b> 20 <b>entire relationship. And, moreover, we were</b> 21 <b>discussing further exclusive and further</b> 22 <b>accounts, so it wasn't that it was this one</b> 23 <b>little thing, it was beyond that.</b> 24 <b>At some point, Interworks just</b> 25 <b>decided that they were gonna not honor it.</b></p> <p style="text-align: right;">Page 40</p>
<p>1 this paragraph. One, the first one was the 2 exclusive right. You don't recall seeing any 3 written documents or written agreements signed 4 by Interworks and Digital Gadgets pertaining 5 to this exclusive right? 6 <b>A. I don't know about a written</b> 7 <b>agreement, however there is a certain</b> 8 <b>agreement without question between Interworks</b> 9 <b>and Digital Gadgets that when Digital Gadgets</b> 10 <b>was selling those goods to QVC, which</b> 11 <b>Interworks was stuck with and QVC canceled</b> 12 <b>their orders with, that Digital Gadgets would</b> 13 <b>fill Interworks' shoes as the exclusive</b> 14 <b>partner, there's no doubt about that.</b> 15 Q. When you say "there's no doubt 16 about that," you know, what proof do you 17 recall? 18 MR. LAZARUS: Objection to the 19 form of the question. 20 Q. Let me ask you this: When you 21 say there's no doubt about this exclusive 22 right, have you ever seen any e-mails sent by 23 Eric Lu? 24 <b>A. I've seen e-mails, I was on</b> 25 <b>conversations, I spoke to Chris Mitchell on</b></p> <p style="text-align: right;">Page 39</p>	<p>1 Q. Okay. 2 To your knowledge, is -- 3 <b>A. Which caused us a tremendous</b> 4 <b>amount of lost work and time and reputation.</b> 5 Q. Do you know if Interworks is 6 currently selling hoverboards to QVC? 7 <b>A. I don't understand the question.</b> 8 Q. To your personal knowledge, is 9 Interworks selling hoverboards to QVC now? 10 <b>A. At this moment, I don't know.</b> 11 <b>Are they in business?</b> 12 Q. Which party is in business? 13 <b>A. Is Interworks still in business?</b> 14 Q. That's why I'm here. 15 <b>A. I don't understand.</b> 16 Q. Well, you know, maybe your 17 attorney can ask my client that question two 18 weeks from now. 19 <b>A. Okay. I don't know if they are</b> 20 <b>selling it. I don't even know if they are in</b> 21 <b>business. I'm hearing all kinds of things in</b> 22 <b>the trade about deceptive things that they are</b> 23 <b>doing, so I don't know if they are there, they</b> 24 <b>are not there, they are selling, they are not</b> 25 <b>selling, I don't know.</b></p> <p style="text-align: right;">Page 41</p>

1 Q. You heard something about  
2 Interworks going out of business?  
3 A. I'm speculating. I'm wondering.  
4 I'm asking you.  
5 Q. Unfortunately, I can't give you  
6 that answer.  
7 But your attorney can ask my  
8 client a couple weeks from now, two, three  
9 weeks from now.  
10 A. Okay. I just don't wanna -- you  
11 are asking me if they are selling something, I  
12 don't even know if they are in business, so  
13 I'm trying to --  
14 Q. All I'm trying to get --  
15 A. How would I know what they are  
16 doing?  
17 Q. Did you hear from QVC that they  
18 are still selling to QVC?  
19 A. It's not something that I  
20 discussed with QVC on a daily basis.  
21 Q. Okay. That's a good answer.  
22 The -- if you look at the second  
23 paragraph, a reference of insurance coverage  
24 was mentioned. Do you know why lack of  
25 insurance coverage was an important issue at

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1 the time when this letter was written?  
2 A. Why insurance is important?  
3 Q. Why lack of insurance coverage  
4 was an important issue?  
5 A. It's a requirement of doing  
6 business, and part of the product -- when QVC  
7 approves a product for sale, there are certain  
8 requirements. If insurance on that product is  
9 part of the approval, it becomes part of  
10 the -- you can't separate the insurance from  
11 the product. If QVC approves the product that  
12 has this cup with this holder with this lid,  
13 and you take off the lid, it's no longer the  
14 cup.  
15 You follow what I'm saying?  
16 Q. Yes, I follow.  
17 A. So if the board doesn't have the  
18 insurance and it was approved with the  
19 insurance, then the lack of the insurance  
20 makes the product not what it was represented  
21 to be.  
22 Q. Okay.  
23 The -- at the time, did you, I  
24 mean Digital Gadgets, have serious concern on  
25 lack of insurance coverage with respect to

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1 these hoverboards supplied by Interworks?  
2 A. Doesn't the letter state that?  
3 Q. Yes, it does say that. I mean,  
4 I'm asking you -- well, let me try to ask  
5 another question.  
6 When you had this letter written  
7 to Interworks, did Interworks promptly show  
8 you sufficient insurance coverage to alleviate  
9 your such concern?  
10 A. Are you saying -- are you asking  
11 me if we had insurance I would still go and  
12 pay money to hire a lawyer and write a letter  
13 that we didn't have insurance?  
14 Q. No. The question is, after you  
15 sent this letter, after, did you or anybody  
16 else at Digital Gadgets receive satisfactory  
17 explanations from Interworks?  
18 A. I know that there was attempt to  
19 resolve the insurance issue by Interworks. I  
20 don't know if it was quote/unquote  
21 satisfactory, but I do know that there was  
22 certain actions taken as a result of this  
23 letter to mitigate what -- maybe what  
24 Interworks felt it needed to provide.  
25 Q. Subsequent to sending this

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1 letter, did you realize that it was actually a  
2 non-issue?  
3 A. No.  
4 Q. Are you aware Digital Gadgets had  
5 to purchase insurance subsequent to sending  
6 this letter to Interworks?  
7 A. Am I aware that Digital Gadgets  
8 had to purchase -- if Interworks didn't solve  
9 the problem, then Digital Gadgets would have  
10 had to purchase insurance. I don't know the  
11 dates and times, but if we had to do something  
12 to mitigate damages, we would have done that  
13 based on our relationship with QVC.  
14 Q. Right, QVC would have required  
15 you, meaning your company, to provide that  
16 coverage, if Interworks failed to provide one,  
17 right?  
18 A. If it was provideable (sic) by  
19 us. It's not like you could just go out and  
20 like buying a pack of gum in the store, not  
21 like saying, okay, you don't have it, I'll do  
22 it, it's an intricate piece of equipment that  
23 many insurance companies will not insure.  
24 Q. Do you personally involve in  
25 obtaining or procuring such insurance coverage

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<p>1 <b>A. The number might be correct, but</b>  2 <b>there might be a reason for it, so what he is</b>  3 <b>he stating is he got \$400,000 and there was a</b>  4 <b>balance of 35k.</b>  5 Q. 35k he says here is not so much,  6 so I don't want to chase you guys; do you  7 remember what was the unit price for each  8 hoverboard?  9 <b>A. I don't know.</b>  10 Q. Was it about a-hundred-something  11 bucks?  12 <b>A. I really don't remember. If it</b>  13 <b>was 35k outstanding, there would be a reason</b>  14 <b>for the 35k to be outstanding.</b>  15 Q. What would be the reason?  16 <b>A. There could be various reasons.</b>  17 Q. I don't want you to speculate.  18 <b>A. If you are asking me the reason</b>  19 <b>for this particular -- particular 35k --</b>  20 Q. I'm asking you that. I was  21 asking you for that.  22 <b>A. I don't have that reason. I</b>  23 <b>could refresh my memory looking at documents,</b>  24 <b>but off the top of my head, just as general</b>  25 <b>business practice there are many reasons that</b>  Page 54</p>	<p>1 Q. Okay.  2 Also it could be -- it could be  3 based on approved discount by the vendor?  4 <b>A. Could be -- could be on a</b>  5 <b>discount, could be an advertising program,</b>  6 <b>could be.</b>  7 Q. Could be a lot of things?  8 <b>A. Could be a lot of things, but it</b>  9 <b>doesn't look out of line that on \$400,000</b>  10 <b>worth of payments there might be \$35,000 worth</b>  11 <b>of these things.</b>  12 Q. Right, and the 400k for the first  13 shipment, at the time only \$35,000 was owed  14 which is less than ten percent?  15 <b>A. Right.</b>  16 Q. But if you look at this e-mail  17 and the subsequent e-mail, there's nothing  18 mentioning about the reason for this balance  19 of 35k?  20 <b>A. Well, there is an e-mail trail</b>  21 <b>below it, but it's not there. This is just a</b>  22 <b>snippet of one e-mail.</b>  23 Q. Okay.  24 THE WITNESS: Can we take a  25 one-minute break or two-minute  Page 56</p>
<p>1 <b>one company says that the amount owed is this,</b>  2 <b>the other company says what we owe is this and</b>  3 <b>there are mitigating reasons for the</b>  4 <b>reconciling differences.</b>  5 <b>You could send a client a bill</b>  6 <b>for \$13,600 for "X" amount of hours, and the</b>  7 <b>client can come back and say well, I have</b>  8 <b>record that you worked this many hours and pay</b>  9 <b>you that, and then there is reconciling</b>  10 <b>differences.</b>  11 Q. Well, one of the reasons,  12 generally speaking, between merchants for  13 mitigating or for disputing the invoices is  14 defective products, right?  15 <b>A. Could be one of the reasons.</b>  16 Q. Was it -- was a defective product  17 the reason that Digital Gadgets had not paid  18 or owed a balance of 35,000?  19 <b>A. It could be one of the reasons.</b>  20 <b>In a general sense QVC, due to the nature of</b>  21 <b>their business, returns products on a regular</b>  22 <b>basis, so there could be a reserve against</b>  23 <b>returns in transit or the reserve based on</b>  24 <b>what the estimated returns would be, that</b>  25 <b>could be.</b>  Page 55</p>	<p>1 break?  2 MR. SHU: Sure.  3 (Recess taken.)  4 MR. HSU: Next in order will be  5 number 6.  6 (Tebele Exhibit 6, Document  7 bearing Bates stamps Interworks 42  8 through Interworks 54, marked for  9 identification.)  10 Q. Number 6 consists of e-mails of  11 twelve pages, a string of e-mails.  12 These document pages were  13 Bates stamped from number 42 through 54.  14 Let's start with number -- page number 1 or  15 Interworks 42, bottom right of the page.  16 The top e-mail was composed and  17 sent by Chris Mitchell to Sam, Gillian Yip,  18 Eric Lu and have you cc'd on it, the subject  19 was High Roller Model C Returns. The date of  20 this e-mail was April 6, 2017. Chris Mitchell  21 said "Hi, Sam, the goods are at the  22 warehouse."  23 The goods that he referred to in  24 this e-mail were Model C hoverboards?  25 MR. LAZARUS: That's a question?  Page 57</p>

<p>1 Q. Where did this conversation take 2 place?</p> <p>3 A. With buyers, with quality 4 assurance people, many different 5 conversations.</p> <p>6 Q. Do you recall when?</p> <p>7 A. No.</p> <p>8 Q. Do you recall where?</p> <p>9 A. At QVC.</p> <p>10 Q. And were you present?</p> <p>11 A. I was present.</p> <p>12 Q. And do you recall -- do you 13 recall who else was present at QVC for that 14 issue?</p> <p>15 A. Our reps and buyers and sales 16 reps.</p> <p>17 Q. Are you able to recall the names 18 of QVC's employees attending that meeting?</p> <p>19 A. I would need to look at e-mails 20 to refresh my memory.</p> <p>21 Q. To your knowledge, was there any 22 QVC customers returned any of the hoverboards 23 supplied by Interworks because of the battery 24 issue?</p> <p>25 A. I don't know. I don't know what</p> <p style="text-align: right;">Page 78</p>	<p>1 what I guess the implication is we would need 2 to have some complaint or some evidence to 3 take action, and what I'm telling you is, as 4 soon as we discovered the problem and the 5 problem rose to a level where it was serious, 6 we stopped.</p> <p>7 Q. And what did you do after you 8 stopped? You mentioned about a few things 9 that -- other than those things that you 10 mentioned, any other efforts that you had set 11 in place to confront this issue?</p> <p>12 A. I don't know, but at some point 13 it became a legal issue, and once it became a 14 legal issue it took on a life of its own and I 15 guess that's why we are sitting here.</p> <p>16 Q. Well, QVC discovered this issue 17 and --</p> <p>18 A. No. QVC told us that this is not 19 what we submitted. We submitted this and when 20 we opened the box it was that. That's not 21 good. If I tell you I'm handing you a wallet 22 with \$10 in it, and you took it home and you 23 got \$5 and somebody calls you and says I only 24 got \$5, not 10, the 10 that you promised me, 25 that's a problem.</p> <p style="text-align: right;">Page 80</p>
<p>1 reason customers use for returns, I wouldn't 2 have access to that.</p> <p>3 Q. That's fair.</p> <p>4 Did you receive any notice from 5 QVC concerning how many returns made by their 6 customers, because of the battery issues?</p> <p>7 A. Again, we don't get the reason 8 for the return, we just get the return. If 9 you knew you were providing fraudulent 10 services to one of your clients, would you 11 wait for one of your clients to say -- if you 12 realize you were providing fraudulent services 13 to your client and you realized that by 14 accident, and are you gonna wait for your 15 client to complain that you are providing 16 fraudulent services before you take action?</p> <p>17 Q. Well, I would not be able to 18 answer that question, because I --</p> <p>19 A. I don't think you need to answer 20 it.</p> <p>21 Q. I wouldn't know the definition of 22 fraudulent.</p> <p>23 A. I don't think you need to answer 24 it. So what you are asking me is, did we get 25 notice or did someone at QVC complain, and</p> <p style="text-align: right;">Page 79</p>	<p>1 Q. Right.</p> <p>2 A. Right.</p> <p>3 Q. Right.</p> <p>4 And --</p> <p>5 A. And if I go back and say the guy 6 who gave me all these \$10 wallets only put \$5 7 in them, I'm gonna start looking to see where 8 the problems lie.</p> <p>9 Does that make sense to you?</p> <p>10 Q. When you receive indications or 11 reports that led you to believe that there -- 12 the batteries supplied by Interworks were 13 defective, not matching with whatever they 14 submitted for sample testing by QVC, is that 15 your statement (sic)?</p> <p>16 A. Say that one more time.</p> <p>17 Q. When you -- by the way, do you 18 know your company had to submit some samples 19 to QVC before you started selling the 20 hoverboards to QVC?</p> <p>21 A. That's not entirely accurate.</p> <p>22 Q. Oh.</p> <p>23 Which part was not entirely 24 accurate?</p> <p>25 A. All of it.</p> <p style="text-align: right;">Page 81</p>

<p>1 Q. The question, very simple: Did 2 you know Digital Gadgets had to submit samples 3 to QVC for testing and approval before you 4 started selling them?</p> <p>5 <b>A. That's not true.</b></p> <p>6 Q. Not true?</p> <p>7 <b>A. No. In this case, because</b> 8 <b>Interworks purported to sell us the unit that</b> 9 <b>was already approved by QVC, QVC allowed us to</b> 10 <b>sell it based on our reputation and vouching</b> 11 <b>for the fact that it was the same model, so we</b> 12 <b>began to sell it without submitting a sample.</b> 13 <b>And only after five months later when we</b> 14 <b>needed to submit a sample for a new program</b> 15 <b>and new orders did we then submit them a</b> 16 <b>sample, and then determined that what we were</b> 17 <b>selling them all along was fraudulent.</b></p> <p>18 Q. You are 100 percent sure about 19 that?</p> <p>20 <b>A. I'm sure of what I just said.</b></p> <p>21 Q. Okay.</p> <p>22 That's very good answer. I'm 23 just --</p> <p>24 <b>A. That doesn't mean that's 100</b> 25 <b>percent of what occurred.</b></p> <p style="text-align: right;">Page 82</p>	<p>1 <b>A. That's what it says.</b></p> <p>2 Q. Okay.</p> <p>3 Does it say that the -- by the 4 way, what is the products described on this 5 report?</p> <p>6 <b>A. (No response.)</b></p> <p>7 Q. Description on top, you see Chic 8 High Roller Self Balancing Hoverboard W? I 9 don't know what that "W" means. Do you know, 10 W slash --</p> <p>11 <b>A. What are you asking me?</b></p> <p>12 Q. I'm asking if you know what that 13 means? I have no idea what that means. What 14 the W at the end and slash, what does that 15 mean?</p> <p>16 <b>A. Probably is truncated that</b> 17 <b>there's some words after that, but it doesn't</b> 18 <b>pick up on the form.</b></p> <p>19 Q. The reason I was asking you, 20 because I don't know what that means.</p> <p>21 If you go through this report, it 22 seems like the samples submitted by Interworks 23 to QVC passed the testing?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Is there anything -- you see the</p> <p style="text-align: right;">Page 84</p>
<p>1 Q. Well, that's based on your 2 recollection that's what happened, right?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Okay.</p> <p>5 MR. HSU: Let's mark this as 8. 6 (Tebele Exhibit 8, Document 7 bearing Bates stamps Interworks 212 8 through Interworks 221, marked for 9 identification.)</p> <p>10 Q. Exhibit 8 is a computer generated 11 form on top of the first page says QVC, QA 12 sample, evaluation report?</p> <p>13 <b>A. Correct.</b></p> <p>14 Q. And have you ever seen this 15 entire report?</p> <p>16 <b>A. I have seen this form. I don't</b> 17 <b>know if I've seen this report before, but I'm</b> 18 <b>familiar with the form.</b></p> <p>19 Q. And if you look at those days, 20 probably the seventh or eighth line from the 21 top, indicates that the sample evaluation due 22 date, pick due date, requested due date, look 23 at those days, do those tell you that the 24 samples were submitted to QVC by Interworks in 25 early October?</p> <p style="text-align: right;">Page 83</p>	<p>1 second page of this exhibit, the Bates number 2 Interworks 213 in the midsection of the page 3 where it says battery identification, four 4 battery packaging, four general electrical 5 requirement test, Interworks passed all of 6 those things, right?</p> <p>7 <b>A. I don't know what -- I mean you</b> 8 <b>are making a statement, I guess, yeah.</b></p> <p>9 Q. So you were saying that 10 Interworks -- I'm trying to understand what 11 your claim is. One of your claims is that 12 Interworks fraudulently --</p> <p>13 <b>A. Interworks had got this board</b> 14 <b>approved.</b></p> <p>15 Q. Right.</p> <p>16 MR. LAZARUS: Referring to?</p> <p>17 <b>A. Interworks 212.</b></p> <p>18 Q. This is 8.</p> <p>19 <b>A. The item on this Exhibit Number 8</b> 20 <b>was approved for sale by QVC.</b></p> <p>21 Q. And QVC --</p> <p>22 <b>A. And you want me to continue to</b> 23 <b>answer, make it easier?</b></p> <p>24 Q. Sure.</p> <p>25 <b>A. Interworks sold us this board,</b></p> <p style="text-align: right;">Page 85</p>



<p>1 <b>A. I don't know QVC had boards on</b>  2 <b>inventory. I don't know where you are making</b>  3 <b>that assumption from.</b>  4 Q. Well, did you ask QVC how many  5 boards QVC still has sitting in its warehouse?  6 <b>A. Again, I don't know that that</b>  7 <b>would be part of the general line of</b>  8 <b>questioning. The way I understand it is we</b>  9 <b>would ship the boards for QVC so they wouldn't</b>  10 <b>have them in their warehouse.</b>  11 Q. Now, yesterday, I don't know if  12 you were here or not, did you hear that  13 Ms. Gillian testified, Gillian Yip?  14 <b>A. Yes.</b>  15 Q. She testified yesterday that  16 the -- your company would ordinarily ship  17 hoverboards to QVC's warehouse and QVC's  18 customers?  19 <b>A. That's correct.</b>  20 Q. So when she was talking about  21 QVC's customers, she's saying these end users,  22 right?  23 <b>A. Right. The way I understand it,</b>  24 <b>these boards were being shipped to end users.</b>  25 Q. So there are boards that shipped</p> <p style="text-align: right;">Page 90</p>	<p>1 liability insurance.  2 Before you came today, did you  3 review all of the certificates of liability  4 insurance provided by Interworks to your  5 company?  6 <b>A. No.</b>  7 Q. So you've never seen this  8 document before?  9 <b>A. I'm not familiar with it. I may</b>  10 <b>have seen it.</b>  11 Q. Okay.  12 Let's mark the next one and see  13 if you have seen this one.  14 (Tebele Exhibit 10, Document  15 bearing bates stamp Interworks 300,  16 marked for identification.)  17 Q. If you look at this certificate  18 of liability insurance dated July 13, 2017,  19 have you ever seen this document before?  20 <b>A. I may have.</b>  21 Q. But you are not sure about it?  22 <b>A. I'm not sure that I have seen it</b>  23 <b>before. I may have.</b>  24 (Tebele Exhibit 11, Document  25 bearing Bates stamp Interworks 301,</p> <p style="text-align: right;">Page 92</p>
<p>1 directly to QVC's warehouse in New Jersey and  2 being stored there?  3 <b>A. QVC doesn't have a warehouse in</b>  4 <b>New Jersey.</b>  5 Q. Or maybe she was saying some  6 other warehouse located in New York?  7 <b>A. Let's cut to what you are trying</b>  8 <b>to say. I don't believe that QVC had boards</b>  9 <b>in their warehouse at the time of this.</b>  10 Q. You don't believe there was any  11 remaining inventory being stored at QVC's  12 warehouse?  13 <b>A. For sale.</b>  14 Q. What is the location of QVC's  15 warehouse?  16 <b>A. They have warehouses all over the</b>  17 <b>country, but they don't have one in New</b>  18 <b>Jersey.</b>  19 Q. Do they have any warehouse in  20 New York?  21 <b>A. I don't believe so.</b>  22 (Tebele Exhibit 9, Document  23 bearing Bates stamp Interworks 299,  24 marked for identification.)  25 Q. Number 9 is a certificate of</p> <p style="text-align: right;">Page 91</p>	<p>1 <b>marked for identification.)</b>  2 Q. Number 11, have you ever seen  3 this certificate of insurance?  4 <b>A. I may have.</b>  5 Q. Let me go back to that QVC QA  6 sample testing report, that was Exhibit 8.  7 Do you recall receiving a report  8 from QVC stating that the battery that came  9 with the hoverboard failed the testing and  10 also on the report says that the battery that  11 came with the samples do not match with what  12 was previously submitted?  13 <b>A. Again, let me take you through</b>  14 <b>how it would be. We would get a failure, it</b>  15 <b>would outline many areas of failure. Only</b>  16 <b>through going back and forth and resubmitting</b>  17 <b>and trying again and resubmitting and trying</b>  18 <b>again, by process of elimination, finally get</b>  19 <b>down to the fact that batteries didn't match.</b>  20 <b>It wouldn't be, hey, you</b>  21 <b>submitted this, the battery didn't match. It</b>  22 <b>would be submitted, it would be failed. It's</b>  23 <b>like a game of ping pong, then we'd have to</b>  24 <b>try to mitigate the failures, all the while</b>  25 <b>not knowing, not even thinking in a million</b></p> <p style="text-align: right;">Page 93</p>

<p>1 (Tebele Exhibit 16, Document 2 bearing Bates stamp Digital gadgets 35, 3 marked for identification.) 4 Q. 16, there is a short e-mail on 5 top from Eric Lu to Chris Mitchell in 6 December, specifically on December 21, 2016. 7 It says "Chris, see my comments 8 below in red. I'll give you a call shortly." 9 In response to Chris Mitchell's 10 e-mail to Eric Lu dated the same day earlier 11 than that, well, yes, a little earlier than 12 3:04 a.m., was 9:26 a.m. in the morning, here 13 by the way, have you received this e-mail from 14 Chris Mitchell? 15 A. Did I receive this e-mail from 16 Chris Mitchell? 17 Q. Right. 18 Did he subsequently forward it to 19 you? 20 A. I don't remember. 21 Q. And says -- Chris Mitchell says 22 here "Eric" starting from the second paragraph 23 "current order QVC isn't going to be able to 24 resolve the lithium battery reissue until next 25 month."</p> <p style="text-align: right;">Page 114</p>	<p>1 Q. And discuss our partnership 2 further? 3 A. Yep. 4 Q. So you did discuss, meaning your 5 company, did discuss this exclusive agreement 6 with Eric Lu? 7 A. Yes. 8 Q. At the trade show, and what was 9 your recollection on Eric Lu's response or 10 anything that he said in Las Vegas -- when you 11 met Eric Lu, did he agree to give that 12 exclusive deal to you guys? 13 A. There was no doubt that he agreed 14 that as long as we had inventory in place that 15 we remained the exclusive partner. We would 16 never buy somebody else's goods for them to go 17 sell them to the same customer behind our 18 back. The discussion further was we were 19 discussing other accounts to extend the 20 exclusive to. 21 Q. Did you also at Las Vegas discuss 22 the payment terms such as consignment? 23 A. It's possible. 24 Q. But you don't remember sitting 25 here?</p> <p style="text-align: right;">Page 116</p>
<p>1 Are you aware of such issue 2 existing in December of 2016? 3 A. That's a different issue. That's 4 a different lithium battery issue than what we 5 are talking about with the QA. 6 Q. Right. 7 And you say is a different issue? 8 A. It has nothing to do with the QA. 9 Q. Okay. 10 And was this around the time when 11 Chris Mitchell was negotiating with Eric on 12 the price terms along with the other terms for 13 the sale of the hoverboards? 14 A. It appears to be. 15 Q. And when Chris Mitchell 16 mentioned -- you see down below like one, two, 17 three, four, fourth bullet point, if you look 18 at the second one? 19 A. Yep. 20 Q. Received exclusive agreement to 21 supply chip listen board to QVC for 2017 and 22 then Eric's comment is yes, we can put this 23 agreement to you, but let's have our meetings 24 and see it and that's the trade show, right? 25 A. Yes.</p> <p style="text-align: right;">Page 115</p>	<p>1 A. Again, there was a sequence of 2 events and a lot of conversations. I don't 3 know what conversation was at CES versus on 4 the phone, but it was a fluid situation. 5 (Tebele Exhibit 17, Document 6 bearing Bates stamp Digital Gadgets 80, 7 marked for identification.) 8 Q. Next one is 17. Have you ever 9 seen this certificate of liability insurance? 10 A. Possibly. 11 Q. You see towards the bottom left 12 underneath two words certificate, Digital 13 Gadgets, LLC and that's your company, right? 14 A. Yes. 15 Q. On top -- well, it's not very 16 top, it's like ninth or tenth or twelfth line 17 from the top, you see under the insured 18 Interworks Unlimited, Inc.? 19 A. Yes. 20 Q. Was printed there, so the insured 21 of this policy was Interworks? 22 A. Yes. 23 Q. And your company was made as an 24 additional insured? 25 A. Yes.</p> <p style="text-align: right;">Page 117</p>

<p>1 submitted this certificate to QVC around the 2 time Digital Gadgets received this from 3 Interworks? 4 <b>A. What's the question again?</b> 5 Q. Do you know if Digital Gadgets 6 ever submitted this certificate of liability 7 insurance to QVC ever? 8 <b>A. I don't know.</b> 9 <b>(Tebele Exhibit 20, Document</b> 10 <b>bearing Bates stamps Digital Gadgets 244</b> 11 <b>through Digital Gadgets 247, marked for</b> 12 <b>identification.)</b> 13 Q. 20 has a number of pages. 14 These documents were produced by 15 Digital Gadgets. 16 If you see the second e-mail from 17 the top on Digital Gadgets 244, this e-mail 18 was sent by Chris Mitchell to Eric, presumably 19 Eric Lu, and you were cc'd on it. Do you see 20 that? 21 <b>A. Yep.</b> 22 Q. And Chris Mitchell first said 23 "Eric understood about wanting the boards 24 back. We were honoring the consignment backup 25 agreement per our conversation. But if that's</p> <p style="text-align: right;">Page 126</p>	<p>1 approved from my factor." 2 Did Eric Lu write all of these 3 responses in bold printed form? 4 <b>A. I don't know, looks like it.</b> 5 Q. And here he was complaining to 6 you guys that if you had been approved by my 7 vendor, I would have given this consignment 8 backup agreement to you guys at the time this 9 e-mail was sent to them, to Eric Lu, to your 10 recollection, Interworks' factor never 11 approved your company on this credit line of 12 \$1 million, right? 13 <b>A. I have no idea. It looks to be</b> 14 <b>he shipped it, bought approval from his factor</b> 15 <b>and maybe he was in trouble or something. I</b> 16 <b>don't know what -- I don't know what -- I</b> 17 <b>don't know what the inner workings between him</b> 18 <b>and his factor are, but we don't have any</b> 19 <b>obligation as Digital Gadgets to satisfy his</b> 20 <b>factor. His factor relationship is between</b> 21 <b>him and his factor.</b> 22 Q. If you look down below, 23 there's -- it seems like there is a 24 spreadsheet prepared by Chris Mitchell to 25 Eric Lu. If you can help me go over the</p> <p style="text-align: right;">Page 128</p>
<p>1 no longer an option for you, we can send back 2 the remaining boards." 3 What is the consignment backup 4 agreement Chris Mitchell was talking about 5 here, if you know? 6 <b>A. Basically, that there were,</b> 7 <b>throughout the negotiations, like I said, it</b> 8 <b>was fluid and what they agreed to was rather</b> 9 <b>than shipping the boards back and forth</b> 10 <b>between Interworks and Digital Gadgets and</b> 11 <b>having them sit in one warehouse or another,</b> 12 <b>since they were only for QVC that we would pay</b> 13 <b>them based on when they were sold. So that's,</b> 14 <b>I mean, call it a consignment agreement, but</b> 15 <b>it's not a very technical term. Consignment</b> 16 <b>agreement would basically mean to me we would</b> 17 <b>pay for the goods per specific agreement as</b> 18 <b>they were sold.</b> 19 Q. Okay. 20 And then the -- see there's some 21 bold printed lines or words starting from an 22 arrow pointing to the left, "I have honored 23 everything" that -- "everything I've said. I 24 told you guys I would give you 25 terms/consignment if you guys would get</p> <p style="text-align: right;">Page 127</p>	<p>1 second page of the document, where you can see 2 not this page, can you just briefly go to a 3 second page? 4 <b>A. Yes.</b> 5 Q. Second page on top to the right, 6 you see the total received number is 10,608 7 units? 8 <b>A. Yes.</b> 9 Q. Is that consistent with your 10 recollection of how many units of 11 hoverboards -- 12 <b>A. I previously answered I'm not</b> 13 <b>sure how many hoverboards were received, but</b> 14 <b>if this e-mail states -- the e-mail stands on</b> 15 <b>its own. The statement is what it is.</b> 16 Q. Okay. 17 But you mention about computer 18 data and software. If you have to retrieve 19 this information or spreadsheet from your 20 computer you would be able to do that, right? 21 <b>A. Yes.</b> 22 Q. After you received these e-mails 23 from Chris Mitchell and Eric Lu, did you 24 remember -- did you remember you had a meeting 25 or a couple of meetings with Chris Mitchell?</p> <p style="text-align: right;">Page 129</p>